

**Village of Irvington
Zoning Board of Appeals**

Minutes of Meeting held December 18, 2001

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M. on Tuesday, December 18, 2001, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman
Bruce E. Clark
George Rowe, Jr.
Paul M. Giddins
Brian Barrett

Mr. Lustenberger acted as Chairman and Mr. Giddins as Secretary of the meeting.

There were two matters on the agenda:

Case No.

2001-22 John M. Shapiro & Shonni J. Silverberg – 2 West Sunnyside Lane
(Sheet 1; Lots P3, P3B, P5B, P115 and P117)

The Applicants appeared by their architect Tom Buck.

In lieu of the verified statement of compliance with the notice provisions of § 224-98(A) of the Irvington Zoning Code ("the Code"), the Applicant filed the applicable proofs of service.

The Applicants sought a variance from the provisions of § 224-60B of the Code (safety measures and screening – swimming pools), to permit the construction of a pool fence to permit the construction of a pool fence one foot less in height than the five foot minimum required by § 224-60B. The Applicants provided drawings of the proposed fence and explained that the variance was sought for aesthetic purposes to improve the view of the Hudson River from the pool deck.

After weighing the factors prescribed by New York State Village Law § 7-712-b (3) (b), the Board concluded that any benefit to the applicant from the one-foot reduction was outweighed by the detriment to the health, safety and welfare of the neighborhood and community which would flow from disregarding the Code's requirement.

There was no opposition to the application.

The Chairman then moved that a vote be taken on the application. The motion was seconded and thereafter the Board voted on the Applicants' request for a variance. The Board voted unanimously to deny the request for a variance to permit.

Case No.

The Applicants appeared by their architect Tobias Guggenheimer.

The Applicants did not file with the Board the verified statement of compliance with the notice provisions of § 224-98(A) of the Irvington Zoning Code ("the Code"). However, Mr. Guggenheimer stated that the required notifications were made in the requisite manner and that the proofs thereof were filed directly with the Village Clerk.

The Applicants sought a variance from the provisions of § 224-11 (front yard set back) and 224-89 (extension of a non-conforming parcel) of the Code, to permit the construction of an addition and a patio that would run between the addition and the existing structure.

The Board reviewed drawings submitted by the Applicants. The Board noted that the proposed addition would only intrude into the front yard set back by a very small amount (seven square feet) while the proposed patio would be largely within the set back area. The Board further noted that the proposed addition adds to a structure that is presently non-conforming.

After weighing the applicable factors, the Board concluded that the benefit to the Applicants from granting the variance outweighed any detriment to the health, safety and welfare of the neighborhood or community. The Board found that the proposed addition's seven foot intrusion into the front yard set back is *de minimus* and the patio, while constituting a more significant intrusion, is so integrated into the existing and new structures as to be unobtrusive. The Board also concluded that the property, even without the existing wood fence, which may be removed, is adequately screened by vegetation as to ameliorate any ill- effects from the two proposed intrusions. The extension of the

house's non-conformity occasioned by the new addition occurs almost entirely within that portion of the lot that conforms to set back requirements and thus could be said not to increase the existing non-conformity.

The Board also found that granting the variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, that the benefit sought could not feasibly be achieved by any method other than a variance, and that the hardship necessitating the request for the variance, while self-created, was not for that reason alone sufficient to outweigh the factors favoring the grant of the variance.

There was no opposition to the application.

The Chairman then moved that a vote be taken on the application. The motion was seconded and thereafter the Board voted on the Applicant's request for a variance. The Board voted unanimously to grant the request for a variance to permit the construction of an addition to the house and of a patio that would run between the addition and the existing structure.

There being no further business, the meeting was, upon motion duly made and seconded, unanimously adjourned.

/s/ Paul M. Giddins
Paul M. Giddins